
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> ____ All Child Care Evaluator Manual Holders ____ All Residential Care Evaluator Manual Holders <u>X</u> All Evaluator Manual Holders	<u>Transmittal No.</u> 07RM-10
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Subject:

REFERENCE MATERIAL – ENFORCEMENT ACTIONS

Revisions Made To:

Sections 1-0040, 1-0045, 1-0050, 1-0055, 1-0057, 1-0060, 1-0065, 1-0070, 1-0072, 1-0075, 1-1205 and 1-1215

Filing Instructions:

REMOVE: Table of Contents - page 1, 12 – 21.1, 123 and 128

INSERT: Table of Contents – page 1, 12 - 21.1, 123 and 128

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1-0040 CIVIL PENALTIES, GENERAL STATEMENT

1-0040

Assessment of civil penalties is one method, in addition to the penalties of suspension or revocation, that may be used to gain compliance from the licensee.

The purpose of civil penalties is to provide a tool for the Licensing Program Analyst to bring the licensee into compliance. This is only one of a number of tools and should be used within the entire scheme of enforcement to gain compliance. The use of a civil penalty is not intended to change any of the procedures normally used by the Licensing Program Analyst. Only after the appropriate process has been completed and the deficiencies documented, are civil penalties assessed to gain compliance.

A table is included in Section 1-0075 titled Quick Reference.

1-0045 VIOLATIONS RESULTING IN ASSESSMENT OF CIVIL PENALTIES 1-0045

The laws and regulations that authorize the department to levy civil penalties can differ somewhat for each facility type. As a result, civil penalties may be assessed under various circumstances, depending on the type of facility and the violation cited.

However, certain violations will always result in the assessment of a civil penalty for all facility types. These include:

- Unlicensed operation
- Background Check violations, which are **immediate** civil penalties.

For some facilities, civil penalties may be assessed for such things as:

- Failure to meet the Plan of Correction Date, see EM section 1-0060.
- Progressive civil penalties for repeat violations, see EM section 1-0065.
- Violations leading to death, injury, or sickness, see EM section 1-0070.

Other specific provisions for the imposition of civil penalties include the following:

For Foster Family Agencies, a civil penalty of \$50 per day for each instance may be assessed for:

- Failure to provide the department with a log of family homes certified and decertified as required [See H&S Code Section 1536, Regulations Section 88061(h)].

For all child day care facilities, a civil penalty will result for:

- Failure to comply with posting requirements

For all child day care facilities, a civil penalty may be imposed for:

- Second or subsequent violation for failure to allow parent or guardian to enter and inspect facility or for retaliation/ discrimination stemming from a request to enter or lodging a complaint.

1-0045 VIOLATIONS RESULTING IN ASSESSMENT OF CIVIL PENALTIES 1-0045 (Continued)

For family child care homes only, an immediate civil penalty will be imposed for:

- Failure to give “The Parent’s Rights Addendum” identifying the excluded individual to parents, or maintain a signed copy in their files, or give a copy of the “Addendum” to the Department of Social Services
- Failure to return signed copy of Confirmation of Removal form to licensing within 5 days

1-0050 UNLICENSED FACILITY OPERATION 1-0050

Civil penalties for an unlicensed facility operation apply to ALL CCLD facility types. When an unlicensed facility operation is identified, a Notice of Operation in Violation of Law (LIC 195) is issued. Civil penalties are assessed as described below.

- **Residential Care Facility for the Chronically Ill**

For a Residential Care Facility for the Chronically Ill an **immediate** civil penalty of \$100 is assessed per resident per day, for the first 15 days until a completed application is submitted or operation ceases. If the application is not submitted within 15 calendar days of the Notice, on day 16 the civil penalty increases to \$200 per resident per day, and continues until a completed application is submitted or operation ceases.

- **Residential Care Facility for the Elderly**

For a Residential Care Facility for the Elderly, if a completed application is submitted or operation ceases within 15 calendar days of the Notice, no civil penalty is assessed. If a completed application **is not** submitted within 15 days and operation continues, a civil penalty of \$100 per resident per day, for days 1 through 15 is assessed retroactively. On day 16 the civil penalty increases to \$200 per resident per day and continues until a completed application is submitted or operation ceases.

- **All Other Facility Categories**

For **all** other facility categories, if a completed application is not submitted or operation does not cease within 15 calendar days of the Notice, on day 16, a civil penalty of \$200 per day is assessed until a completed application is submitted or operation ceases.

Use the table in Section 1-0075 as a quick reference for timeframes and amounts for specific facility types.

1-0050 UNLICENSED FACILITY OPERATION (Continued)**1-0050****Completed Application Requirements**

Residential Care Facilities for the Elderly; see Section 87218.

Residential Care Facilities for the Chronically Ill; see Section 87818.

Foster Family Homes; see Section 89218.

Crisis Nurseries; see Section 86518.

Other Community Care Facilities: see Section 80018.

Child Day Care Facilities;

Day Care Centers, see; Section 101169.

Family Child Care Homes; see Section 102369.

1-0055 BACKGROUND CHECK VIOLATIONS**1-0055**

Civil penalties for background check violations apply to **all** facility categories. Licensees will be subject to an immediate civil penalty assessment if they:

1. Allow any person subject to a criminal record check to work, reside or volunteer in their facility if the person has not:

A. Obtained a criminal record clearance or exemption.

Individuals who are subject to a background check shall obtain either a California clearance or a criminal record exemption from the Department before working, residing or volunteering in the facility.

B. Submitted a written request for a transfer of a current criminal record **clearance**.

Failure to submit a written request to transfer a current criminal record clearance prior to allowing a person to work, reside or volunteer in the facility shall result in the citation of a deficiency and an immediate assessment of civil penalties.

If an individual, working, residing or volunteering in the facility, has a criminal record **clearance** but the individual is associated to another facility and the licensee has not yet submitted a transfer request, give the licensee a transfer request form (LIC 9182) and have him/her complete the form during the visit. See EM Section 7-1100 for transfer instructions. Cite the deficiency and assess the civil penalties. See General Procedures below.

C. Received a written approval to transfer the person's criminal record exemption to the licensee's facility.

1-0055 BACKGROUND CHECK VIOLATIONS (Continuing)

1-0055

If an individual, working or residing in the facility, has a criminal record **exemption** but the individual is associated to another facility and the licensee has not yet received confirmation that the exemption was transferred, give the licensee an exemption transfer request form (LIC 9188) and have him/her complete the form during the visit. See EM Section 7-1770 for transfer instructions. Cite the deficiency and assess civil penalties. See General Procedures below.

- NOTE: Transferring a criminal record **clearance** differs from a written request to transfer a criminal record **exemption**. A clearance indicates no criminal history. However, an exemption means there is a criminal history, but despite that history an exemption may have been granted. The basis for the exemption may vary from one facility type to another due to the potential risk to clients. For example, an exemption despite past minor theft crimes may have been approved for child care, but would not be appropriate if client funds may be handled. Therefore, transferring an exemption request must be thoroughly reviewed and **approved** prior to transference.

2. Have not complied with the Department's order to remove or exclude an individual.

For all facilities, except Community Care Facilities, a licensee's failure to comply with the department's order to remove or bar a person from the facility during the exemption process or prohibit employment, contact with clients, or presence in a facility as a result of an Administrative Action shall result in a citation of deficiency and an **immediate** civil penalty in the amount of \$100 per violation, per day for a maximum of 5 days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of \$100 per violations for a maximum of 30 days, and shall be grounds for revocation or suspension of the license.

General Procedures

Prior to each licensing visit, review the facility file for citations for allowing an individual without a criminal record clearance or exemption to work, **reside, provide care or supervision, or volunteer** in the facility. Query the LIS or equivalent county system for a list of all persons currently associated to the facility.

- If an individual (who is subject to a background check) is working, **residing or volunteering** in the facility and he/she does not have a clearance or a criminal record exemption:
 1. Determine how long the individual has been working, **residing, or volunteering** at the facility.
 2. Cite the deficiency. **The POC date is immediate.**

1-0055 BACKGROUND CHECK VIOLATIONS (Continuing)

1-0055

3. Assess **an immediate CP in the amount of \$100 per violation, per day** for the number of days that you can substantiate the individual worked, resided, or volunteered, without having complied up to a maximum of 5 days.
4. If the **violation is a second or subsequent violation within a 12-month period**, assess the CP **of \$100 per violation** for the number of days that you can substantiate the individual worked, **resided, or volunteered** in the facility, up to a maximum of 30 days.

Note: If the individual is a non-dependent resident, or is an employee, the licensee must immediately remove him/her from the facility. The individual cannot return to the facility until he/she receives a clearance or a criminal record exemption.

If the individual is the spouse or dependent family member of the licensee and he or she cannot be removed, initiate administrative action to revoke the license. Consult with legal staff.

Special Conditions

Non-client children who turn 18 while working or residing in the facility have thirty (30) days from the date of his/her 18th birthday to submit fingerprints and obtain a clearance.

If a Foster Family Home or Certified Family Home is also licensed as a Family Child Care Home, anyone 18 years or older residing in the home must be fingerprinted regardless of whether he or she is receiving foster care benefits.

If the 18 year old is working or residing in the facility and the 30-day timeframe has lapsed and he/she has not submitted his/her fingerprints or is not successful in obtaining a clearance or criminal record exemption, the licensee must be cited and immediate civil, as described above, penalties must be assessed.

- If the 18 year old is an employee or a non-dependant family member, the licensee must immediately **remove** him/her from the facility. The 18 year old cannot return to the facility until he/she receives a clearance or a criminal record exemption.
- If the 18 year old is a dependant family member he/she cannot be removed. Initiate administrative action to revoke the license. Consult with legal.

Individuals away on military duty who are returning to reside in a licensed facility have thirty (30) days from the date he/she returns to the facility to submit fingerprints and obtain a clearance.

If the 30-day timeframe has lapsed and the individual has not submitted his/her fingerprints or is not successful in obtaining a clearance or criminal record exemption, the licensee must be cited and immediate civil penalties, as described above, must be assessed.

1-0055 BACKGROUND CHECK VIOLATIONS (Continuing)**1-0055**

- If the individual is a non-dependant resident, the licensee must immediately **remove** him/her from the facility. The individual cannot return to the facility until he/she receives a clearance or a criminal record exemption.
- If the individual is the spouse or dependant family member of the licensee he/she cannot be removed. Initiate administrative action to revoke the license. Consult with legal.

Chain Facilities within the same Regional Office. See EM Section 7-1100 for transfer instructions regarding chain facilities. In some cases you may apply the following:

- If an individual, working or residing in a chain facility, has a criminal record **clearance** but the individual is not associated to the facility you are visiting, check whether the individual is associated to the licensee's designated central file facility and also whether the licensee has sent in the required documentation needed to assign one facility as the central file for clearances. If the central file for the chain facilities contains the individual's clearance, do not cite, the criminal record clearance requirement is met. Note that the central file only applies to facilities within the same regional office. If not, cite the deficiency and assess the civil penalty in accordance with regulation and statute and give the licensee a transfer request form (LIC 9182) and have him/her complete the form during the visit.

**1-0057 PARENTS RIGHTS ADDENDUM VIOLATIONS FAMILY
CHILD CARE HOMES ONLY****1-0057**

The following procedures will apply if the person has been excluded from a family child care home, either by the Caregiver Background Check Bureau, or the Regional Office; or the County Licensing Office.

- By the Caregiver Background Check Bureau: A “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995B) (Regarding Exclusion)” will be sent from the Caregiver Background Check Bureau, to the licensee, with a copy to the Regional Office. The Regional Office is to file its copy in the public portion of the facility file behind the “Personnel” divider. If the person is later permitted to return to the facility the Caregiver Background Check Bureau will send the licensee a “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995C) (Regarding Reinstatement) with a copy to the Regional Office. Again, the Regional Office must file it in the public portion of the facility file, behind the “Personnel” divider.
- By the Regional Office: A “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995B) (Regarding Exclusion) “will be sent from the Regional Office or the County Licensing Office, to the licensee, and a copy placed in the public portion of the facility file behind the “Personnel” divider. If the person is later permitted to return to the facility, the Regional Office will or County Licensing Office will send to the licensee a “Family Child Care Home, Addendum of Notification of Parent’s Rights (LIC 995C) (Regarding Reinstatement). Again, the Regional Office must file it in the public portion of the facility file, behind the “Personnel” divider.

An **immediate** civil penalty of \$100 per violation must be assessed to a Family Child Care Home licensee when someone has been excluded from the facility and the licensee fails to comply with any of the following pursuant to H&S Code Section 1596.8712 and Regulation Section 102395(a)(2)(3) and (4):

- Provide parents/authorized representatives with a copy of the addendum;
- Obtain parents/authorized representatives signature or;
- Provide the Department with a copy of the signed addendum upon request.

NOTE: Civil penalties are based upon parents/authorized representatives not receiving a copy of the addendum i.e. if the parent/authorized representatives of four children did not receive notification from the licensee and three of the four children had the same parents/authorized representative, the licensee would only be assessed a civil penalty of \$200. If a licensee refuses to permit the Licensing Program Analyst to see proof of receipts of the Parents Rights Addendum, cite \$100 penalty for each set of parents whose children are present on the day of the visit.

**1-0060 CIVIL PENALTIES ASSESSED FOR FAILURE TO MEET
PLAN OF CORRECTION DUE DATE****1-0060**

Each time a citation is issued, a Plan of Correction Due Date is established. The department shall set a reasonable time for compliance by the facility. A follow-up visit is conducted to verify corrections within ten working days following the Plan of Correction Due Date unless other approved means are used to clear the deficiencies. Under existing regulations the following applies for RCFCIs, RCFEs, and all community care facilities, except Foster Family Homes.

If deficiencies are not corrected by the date specified in the notice of deficiency, a civil penalty of \$50 per day, per cited violation is assessed beginning on the day after the Plan of Correction Due Date, up to a maximum of \$150 per day.

Note: If the follow-up visit is not conducted within ten working days following the Plan of Correction Due Date, a civil penalty cannot be assessed. If the deficiency has not been corrected, issue a new citation and establish a new Plan of Correction Due Date. An immediate civil penalty cannot be assessed for this new citation at the time it is issued. This new citation will be counted as the first deficiency in the progressive civil penalty process.

Foster Family Agency

The Foster Family Agency will be given a Plan of Correction and will have a reasonable length of time for compliance. If the deficiency(ies) is not corrected by the Plan of Correction Due Date, a civil penalty of \$50 per day, per cited violation will be assessed up to a maximum of \$150 per day.

During the course of an annual inspection of a Foster Family Agency, citations of the same subsection at more than one certified home generally do not constitute a repeat citation for purposes for assessing immediate civil penalties. Refer to EM Section 1-0065, Civil Penalties for Repeat Violations for further clarification.

Child Day Care Facilities**Day Care Center**

Under existing regulation, Section 101195, if serious deficiencies are not corrected by the date specified in the notice of deficiency, a civil penalty of \$50 per day, per violation is assessed beginning on the day after the Plan of Correction Due Date, up to a maximum of \$150 per day.

Family Child Care Home

A civil penalty of \$50.00 per day will be assessed if a deficiency within Section 102419 (a)(8), (b), (c), (d), (d)(1), or (d)(2) is not corrected by the Plan of Correction Due Date. The civil penalty continues until the deficiency is corrected.

1-0065 CIVIL PENALTIES FOR REPEAT VIOLATIONS

1-0065

Procedures for All Categories (except Family Child Care Homes)

The department is required to notify the Residential Care Facility for the Elderly, Residential Care Facility for the Chronically Ill or Community Care Facility in writing of the deficiencies and shall set a reasonable time for compliance by the facility. Notwithstanding this requirement, any Residential Care Facility for the Elderly, Residential Care Facility for the Chronically Ill or Community Care Facility that is cited for repeating the same violation, of the same subsection of this chapter within 12 months of the first violation, an immediate civil penalty is assessed and a penalty is also assessed for each day the violation continues until the deficiency is corrected.. The amount of the immediate civil penalty assessed and the civil penalty assessed for each day the violation continues varies by facility type (See below). More than one civil penalty may be in effect at one time.

Note: Foster Family Homes are not subject to the procedures and civil penalty amounts described in this section. Foster Family Homes are subject to civil penalties described in EM Section 1-0050, Unlicensed Facility Operation and Section 1-0055, Background Check Violations (including progressive penalties for Background Check Violations which are mandated separately in Statute).

1. **Second Cited Violation within 12 Month**
(except Family Child Care Homes)

For the **same** cited violation of the same subsection within 12 months, assess an immediate civil penalty of \$150 per cited violation for that day. If the deficiency is not corrected, the following day a civil penalty of \$50 per day per cited violation begins and accrues until corrected.

2. **Third Cited Violation within 12 Months of the Last Citation**
(except Family Child Care Homes)

- **Residential Care Facility for the Elderly/Residential Care Facility for the Chronically Ill**

For the third cited violation **and/or subsequent cited violations** of the same subsection within 12 months of the last cited violation, assess an immediate civil penalty of \$1,000 per cited violation for that day. If the deficiency is not corrected, the following day a civil penalty of \$100 per day per cited violation begins and accrues until corrected.

- **Community Care Facilities**

For the third cited violation **and/or subsequent cited violations** of the same subsection within 12 months of the last cited violation, assess an immediate civil penalty of \$150 per cited violation for that day. If the deficiency is not corrected, the following day a civil penalty of \$150 per day per cited violation begins and accrues until corrected.

1-0065 CIVIL PENALTIES FOR REPEAT VIOLATIONS (Continued)**1-0065**

- **Foster Family Agency**

The progressive civil penalty process for Foster Family Agencies is generally the same as for Community Care Facilities. If a Foster Family Agency receives citations for repeat violations of the same subsection in a twelve month period for deficiencies observed at the same Certified Family Homes, immediate civil penalties will be assessed per the instructions for Community Care Facilities. If a Foster Family Agency receives citations for repeat violations of the same subsection within a 12 month period for deficiencies observed during the agency office visit portion of the evaluation, immediate civil penalties will also be assessed per the instructions for Community Care Facilities.

However, if a Foster Family Agency receives citations for repeat violations of the same subsection in a 12 month period for deficiencies observed at different Certified Family Homes, immediate civil penalties will generally not be assessed, even though all of the citations will be issued against the Foster Family Agency. In these situations the Plan of Correction must include a requirement that the Foster Family Agency take steps to ensure compliance with the cited deficiencies at all of its Certified Family Homes. For example, the Licensing Program Analyst finds one Certified Family Home with an unfenced swimming pool. As a part of the Plan of Correction, the Licensing Program Analyst requires the Foster Family Agency to check all its Certified Family Homes for swimming pool fencing. In addition, the Licensing Program Analyst notifies the Foster Family Agency that failure to correct the deficiency will result in the assessment of progressive penalties. **If within** 12 months, the Licensing Program Analyst cites another **one** of the Foster Family Agency's Certified Family Homes **for a violation** of the same subsection, the **Foster Family Agency** is assessed an immediate Civil Penalty. Civil Penalties will continue to be assessed against the **Foster Family Agency** until the deficiency is corrected.

- **Child Care Centers**

For the third cited violation **and/or subsequent cited violations** of the same subsection within 12 months of the last cited violation, assess an immediate civil penalty of \$150 per cited violation for that day. If the deficiency is not corrected, the following day a civil penalty of \$150 per day per cited violation begins and accrues until corrected.

Procedures for Family Child Care Homes

The following procedures apply to facilities cited for repeatedly violating the same subsection (see below) of Title 22, Section 102419 – Admission Procedures and Parental and Authorized Representative's Rights

1-0065 CIVIL PENALTIES FOR REPEAT VIOLATIONS (Continued)**1-0065****1. Second Cited Violation within 12 Months**

If the licensee subsequently violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within 12 months of the initial citation, the Department shall assess a civil penalty of \$150 plus an assessment of \$50 per day until the deficiency is corrected.

2. Third Cited Violation and/or subsequent cited violations within 12 Months of the Last Citation

If the licensee subsequently violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within 12 months of the citation and assessment in Section 102419(b)(3)(B), the Department shall assess a civil penalty of \$150 plus an assessment of \$150 per day until the deficiency is corrected.

1-0070 VIOLATIONS LEADING TO DEATH, INJURY, OR SICKNESS OF A CLIENT**1-0070**

An **immediate** civil penalty of **\$150 per day** shall be assessed if sickness, injury, or death of any client has occurred as a result of the deficiency at the following facility types:

- Residential Care Facility for the Elderly
- Community Care Facility,
- Foster Family Agency, except where otherwise specified, shall be governed by Chapter 1, General Licensing regulations; the Foster Family Agency shall be responsible for paying civil penalties for violations cited against the agency's certified homes
- Adult Day Program
- Crisis Nursery
- Day Care Center

The Licensing Program Analyst must contact a **Licensing Program Manager or a Regional Manager** prior to issuing this type of civil penalty.

Upon approval, the deficiency is cited and an immediate civil penalty of \$150 is assessed. An ongoing civil penalty of \$150 per day per violation continues until violation is corrected.

Note: In some cases the violation that created the harm may have already been corrected. If a Plan of Correction has already been corrected, the Plan of Correction Due Date is immediate.

1-0072 ADDITIONAL CIVIL PENALTY ASSESSMENTS**1-0072****CHILD CARE CARE FACILITIES****FAILURE TO RETURN CONFIRMATION OF REMOVAL FORM – FAMILY CHILD CARE HOMES ONLY**

The licensee must return a confirmation of removal form, sent by the department, within 5 days of the date of the form that confirms under penalty of perjury that the individual has been removed from the facility. The department shall assess a civil penalty of \$50 per day for failure of the licensee to comply with returning the confirmation of removal form within 5 days.

FOR SUBSEQUENT VIOLATION OF PARENT’S RIGHTS TO ENTER AND INSPECT ANY CHILD DAY CARE FACILITY OR RETALIATION

If any child day care facility denies a parent or legal guardian the right to enter and inspect a facility, or retaliates, the department shall issue the facility a warning citation.

For any **subsequent** violation of this right to enter and inspect, or for retaliation, the department may impose a civil penalty upon the facility of \$50 per violation. The department may take any appropriate action, including license revocation. (See H&S Code Section 1596.857(c) and Regulation Section 102419(f).)

POSTING SITE VISIT REPORT NOTICE

The department’s posted written notice of a site visit to a licensed child day care facility shall remain posted for 30 consecutive days, except that a family day care home shall comply with the posting requirements only during hours when children are present.

Failure by a licensed child day care facility (center or home) to comply with this posting shall result in an **immediate** civil penalty of **\$100**. [See H&S Code Section 1596.817(b)]

1-0072 ADDITIONAL CIVIL PENALTY ASSESSMENTS**1-0072****POSTING LICENSING REPORT OF FACILITY VISIT OR COMPLAINT INVESTIGATION THAT RESULTS IN A TYPE A VIOLATION**

Each licensed child day care facility shall post a copy of any licensing report pertaining to the facility that documents either a facility visit or a complaint investigation that results in a citation for a violation that, if not corrected, will create a direct and immediate risk to the health, safety, or personal rights of children in care. The licensing report shall be posted immediately upon receipt on, or immediately adjacent to, the interior side of the main door to the facility and shall remain posted for 30 consecutive days. A family child care home shall comply during the hours that clients are present.

Failure to comply shall result in an **immediate** civil penalty of **\$100**.
(See H&S Code Section 1596.8595(a)(3).)

POSTING REPORTS VERIFYING COMPLIANCE OR NONCOMPLIANCE

The child day care facility licensee shall post a licensing report or other appropriate documents verifying the licensee's compliance or noncompliance with the department's order to correct a deficiency that is subject to posting because the citation was for a violation that, if not corrected, will create a direct and immediate risk to the health, safety, or personal rights of children in care. The licensing report or other document shall be posted immediately upon receipt, on, or immediately adjacent to, the interior side of the main door into the facility and shall be posted for 30 consecutive days.
A family child care home shall comply during hours when clients are present.

Failure to comply shall result in an **immediate** civil penalty of **\$100**.
(See H&S Code Section 1596.8595(b)(3).)

	Failure to Meet POC Date For Deficiencies	Progressive Civil Penalties for Repeat Violations	
Type of Facility	First cited violation if not corrected	Second cited violation within 12 months of the last violation	Third or subsequent cited violation within 12 months of the last violation
Residential Care Facility for the Elderly	\$50 per violation \$150 per day maximum	\$150 immediate ¹ per violation then \$50 per day until corrected	\$1,000 immediate ¹ per violation then \$100 per day until corrected
Residential Care Facility for the Chronically Ill	\$50 per violation \$150 per day maximum	\$150 immediate ¹ per violation then \$50 per day until corrected	\$1,000 immediate ¹ per violation then \$100 per day until corrected
Community Care Facility Including Foster Family Agency ² Excluding Foster Family Homes	\$50 per violation \$150 per day maximum	\$150 immediate ¹ per violation then \$50 per day until corrected	\$150 immediate ¹ per violation then \$150 per day until corrected
Child Care Centers	\$50 per violation \$150 per day maximum	\$150 immediate ¹ per violation then \$50 per day until corrected	\$150 immediate ¹ per violation then \$150 per day until corrected
Family Child Care Home	\$50 per violation of Section 102419 (a)(8), (b), (c), (d), (d)(1), or (d)(2) per day until corrected.	\$150 immediate ¹ per violation then \$50 per day per violation of Section 102419 (a)(8), (b), (c), (d), (d)(1), or (d)(2) until corrected	\$150 immediate ¹ per violation then \$150 per day per violation of Section 102419 (a)(8), (b), (c), (d), (d)(1), or (d)(2) until corrected

¹ The immediate penalty is assessed on the day the deficiency is cited (for one day only); daily penalty begins the day after the immediate civil penalty assessment and continues until the deficiency is corrected. **There is no daily maximum**

² FFAs are cited for violations found in Certified Family Homes (CFHs). Unless special criteria are met (see EM 1-0060, 1-0065), FFAs are not assessed penalties for repeat violations found in different CFHs

Type of Facility	Sickness, Injury, or Death as a Result of Deficiency	Background Check Violations			
		Failure to obtain background check clearance or exemption prior to presence in the facility	Failure to submit a transfer of background check clearance	Failure to obtain approval of an exemption transfer prior to presence in the facility	Failure to comply with department removal and exclusion requirements *(Applies to all facility types except for community care facilities.)
Residential Care Facility for the Elderly	\$150 immediate then up to \$150 per day ¹ per violation until corrected	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			
Residential Care Facility for the Chronically Ill	N/A (refer to next column)	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			
Community Care Facility Including Foster Family Agency, Excluding Foster Family Homes	\$150 immediate then up to \$150 per day ¹ per violation until corrected	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			
Foster Family Home	N/A	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			
Child Care Centers	\$150 immediate then up to \$150 per day ¹ per violation until corrected	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			
Family Child Care Homes	N/A	\$100 immediate per person per day up to 5 days; \$100 immediate per person per day up to 30 days for 2 nd or subsequent violation within 12 months			

Type of Facility	Unlicensed Facility Operation
Residential Care Facility for the Elderly	<p>Facility has 15 days to complete application. When a completed application has not been submitted, on the 16th day:</p> <ul style="list-style-type: none"> Assess penalty of \$100 per day per resident retroactively for the first 15 days Assess a penalty of \$200 per day per resident until a completed application is submitted or operation ceases
Residential Care Facility for the Chronically Ill	<p>Immediate penalty of \$100 per day per resident until a completed application is submitted or operation ceases. When a completed application has not been submitted, on the 16th day:</p> <ul style="list-style-type: none"> Assess a penalty of \$200 per day until a completed application is submitted or operation ceases
Community Care Facility	<p>Facility has 15 days to complete application. When a completed application has not been submitted, on the 16th day:</p> <ul style="list-style-type: none"> Assess a penalty of \$200 per day until a completed application is submitted or operation ceases
Child Care Centers	<p>Facility has 15 days to complete application. When a completed application has not been submitted, on the 16th day:</p> <ul style="list-style-type: none"> Assess a penalty of \$200 per day until a completed application is submitted or operation ceases
Family Child Care Homes	<p>Facility has 15 days to complete application. When a completed application has not been submitted, on the 16th day:</p> <ul style="list-style-type: none"> Assess a penalty of \$200 per day until a completed application is submitted or operation ceases

Type of Facility	Parent's Rights Addendum (Regarding Exclusion) or (Regarding Reinstatement) not given to parent, signed copy not maintained or not given to Licensing upon request	2 nd or subsequent violation for failure to allow parent or guardian to enter and inspect facility or for retaliation/discrimination stemming from a request to enter or lodging a complaint.	Failure to comply with Posting Requirements			Failure to return signed copy of Confirmation of Removal form to licensing within 5 days
			Site Visit Notice – Failure to Post for 30 days	Type A Violations – Failure to Post for 30 days	Proof of Correction of Type A Violations – Failure to post for 30 days	
Day Care Centers	N/A	\$50 per violation	\$100 immediate per violation	\$100 immediate per violation	\$100 immediate per violation	N/A
Family Child Care Home	\$100 immediate per parent	\$50 per violation	\$100 immediate per violation	\$100 immediate per violation	\$100 immediate per violation	\$50 per day

1-1205 NECESSITY FOR A TEMPORARY SUSPENSION ORDER (Continued)**1-1205**

- a. What is the licensee's capability to appropriately control such event(s) in the future? A lack of control supports a temporary suspension order recommendation.
 - b. What is the licensee's history on these issues? A history of previous similar incidents support a conclusion that the licensee should have acted sooner to avoid or prevent the event(s) and that a temporary suspension order recommendation is appropriate.
9. What are the number, frequency, and seriousness of the incidents?
- a. One serious incident, physical or sexual abuse for example, is often enough to warrant a temporary suspension order recommendation.
 - b. Is the most recent incident one in a pattern of similar incidents? The last incident, alone, may not appear to be sufficient, but taken as a pattern of conduct a temporary suspension order recommendation may be warranted.
10. Has the licensee, a staff member, volunteer, client or outsider with access to the facility been arrested for and/or convicted of any of the crimes for which an exemption cannot be granted? Conviction information and arrest information (if the arrest information is supported by other evidence, such as statements from competent witnesses) usually is a sufficient basis for a temporary suspension order recommendation.
- a. For residential community care facilities **and adult day programs**, see Health and Safety Code Section 1522 (f) or
 - b. For child care facilities and family child care homes, see Health and Safety Code Section 1596.
 - c. For residential care facilities for the elderly, see Health and Safety Code Section 1569.17 (e).
 - d. For residential care facilities for the chronically ill, see Health and Safety Code Section 1568.09 (e).

1-1211 TEMPORARY SUSPENSION ORDER PROCESS (Continued) 1-1211

10. All communication to the Legal Division on a telephone temporary suspension order must include the assigned attorney's name.

1-1215 TEMPORARY SUSPENSION ORDER INTERIM HEARINGS FOR COMMUNITY CARE FACILITIES 1-1215

In addition to the following procedures, refer to Section 1-1190, Facility Closures: Notification and Client Relocation.

The following section does not apply to Child Care Facilities, Residential Care Facilities for the Chronically Ill or Residential Care Facilities for the Elderly.

Health and Safety Code, Section 1550.5 requires special procedures in the case of temporary suspension orders for community care facilities. The following types of facilities are governed by the interim hearing procedures: group homes, foster family homes, small family homes, adult residential facilities, adult day programs and social rehabilitation facilities, adoption agencies and foster family agencies.

The community care facility temporary suspension order is served on the licensee in the same manner as other temporary suspension orders. However, the community care facility temporary suspension order differs from a basic temporary suspension order in three ways. First, the community care facility temporary suspension order has additional documents that must be served with the temporary suspension order.

These documents explain interim hearing rights and procedures to respondents and provide an interim hearing request form. Second, in a community care facility temporary suspension order, there is a right to an interim hearing which does not exist in the basic temporary suspension order. Third, all available discovery must be served with the temporary suspension order.

Community care facility licensees have five days from the date of service of the temporary suspension order in which to request an "interim hearing." Licensees will send interim hearing requests directly to the Office of Administrative Hearings. Neither Statewide Program Offices, Regional Offices, nor county offices may accept interim hearing requests. The interim hearing, which is scheduled and conducted by the Office of Administrative Hearings, must take place within ten working days of the request. The purpose of the interim hearing is to determine whether the temporary suspension order should remain in effect.

NOTE: The respondent may concurrently file a writ in Superior Court to challenge the Department's issuance of a temporary suspension order, while also going through the interim hearing process.